IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

WP(C).No. 17578 of 2006(P)

PETITIONER:

SANTY BOSE, W/O. MOHAN BOSE,
AGED 38 YEARS, VAZHAKULATH HOUSE,
PARIYARAM, PUTHUPPALLY, KOTTAYAM.

BY ADV. SRI.M.J.THOMAS

RESPONDENTS:

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1. KUMARAKAM GRAMA PANCHAYAT,
KUMARAKAM REPRESENTED BY ITS SECRETARY.

2. THE SECRETARY, KUMARAKOM GRAMA
PANCHAYAT, KUMARAKAM.

3. BAIJU, MALIKKAYALIL,
ALSO KNOWN AS PARAMBIL AND MULIAKAYIALIL,
KUMARAKAM, KOTTAYAM.

BY ADV. SRI.C.A.CHACKO
SRI.T.A.SHAJI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C.KURIAKOSE, J.

W.P.(C)NO. 17578 of 2006

Dated this 23rd day of January, 2007

JUDGMENT

Even though several grounds have been raised by the writ petitioner, who owns properties near to the objectionable building which has been constructed by the 3rd respondent, the ground that Ext.P7 order was passed by the Panchayat Committee without jurisdiction appeals to me. The order which was impugned before the Panchayat Committee was an order directing demolition of the building on the ground that it has been constructed in violation of Section 220 (b) of the Panchayat Raj Act. Of course, Sri.T.A.Shaji, the learned Standing Counsel for the Panchayat would submit that the order can be construed as one an order under Section 235 of the Act refusing to number the building in which case an appeal can lie under Section 276 to the Committee. The above argument of the learned Standing Counsel according to me is not sustainable.

2. I uphold the contention that Ext.P7 order was issued by the Committee on an appeal which was not maintainable. Ext.P7 is quashed on that reason. It is seen that the 3rd

respondent has put up the objectionable construction on a plot which had extent of only 2.175 cents of land which is said to be the only immovable asset belonging to the 3rd respondent, I relegate the 3rd respondent to his remedy by way of an appeal before the Tribunal for Local Self Government Institution against the demolition order which was impugned by him before the Committee of the Panchayat. If the Tribunal for Local Self Government Institution receives an appeal within three weeks of the petitioner or the 3rd respondent receiving a copy of this judgment, the Tribunal will entertain that appeal as one filed on time and dispose of the same in accordance with law at the Tribunal's earliest and at any rate within four months of receiving the appeal on file. The status quo obtaining as on today will be maintained for a period of two months from today. It is needless to mention that the writ petitioner also shall be made as a respondent in the appeal to be filed by the 3rd respondent.

The writ petition is disposed of as above.

PIUS C.KURIAKOSE
Judge

dpk